



Town of Southern Shores

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Town of Southern Shores

Council Meeting

January 22, 2008

8:00 AM.-Pitts Center

Minutes

The Southern Shores Town Council met on January 22, 2008 at the Pitts Center.

The following Council Members were present: Mayor Don Smith, Brian McDonald, Jodi Hess, and Kevin Stroud. Mayor Smith explained Jim Pfizenmayer has been delayed due to road conditions in coming from Virginia.

Also present were: Carrie Gordin, town clerk and Ike McRee, town attorney.

Mayor Smith called the meeting to order at 8:00 a.m., led the Pledge of Allegiance and held a moment of silence for the family of police Officer Jeremy Hemilright whose grandfather passed away and for our troops serving around the world.

APPROVAL OF AGENDA

Council Member Hess moved to approve the agenda as presented. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud voting aye; no council member voting no; and Council Member Pfizenmayer absent.

PUBLIC COMMENT

Mayor Smith opened the public comment section, hearing none he closed the public comment section.

APPROVAL of MINUTES – November 27, 2007 and December 17, 2007

Council Member Hess moved to approve the November 27, 2007 and December 4, 2007 minutes as presented. Council Member McDonald seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, and Stroud voting aye; Council Member Pfizenmayer absent.

CONSENT AGENDA - None

REPORTS - None

OLD BUSINESS

Surf Rescue Contract

The town manager reported that Mirek Dabrowski re-submitted an amended contract at a price of \$126,000 and he recommended that council approve the contract for a one-year term to allow discussions options for future years.

Council Member McDonald asked if the contractor is aware of the recommended one-year term of the contract. The town manager stated that Mr. Dabrowski would prefer a three-year contract but this is the recommendation that the town manager is presenting. He stated that the fire department will address council today on an alternative for life guard services.

Council Member Stroud asked for clarification that the roving life guard would be available during the shoulder period in May and September. The town manager said yes.

Council Member McDonald asked if the on-call availability is still part of the contract. The town manager stated that the contractor will be there if he is available.

Council Member Hess stated that she feels the contractor has bent over backwards to adjust the contract and the contract should be approved for three years. She stated the prices quoted are good. Council Member McDonald agreed.

The town manager stated council may want to hear the fire department proposal before voting on the contract.

Council agreed to come back to this issue following the fire insurance district issue.

Tidewater Fibre Recycling Contract (TFC)

The town manager stated that TFC has answered the questions regarding the contract. They have agreed to charge the town \$79.63 per cart and the town would then add North Carolina tax which would increase the cart to \$85.01 to the resident. He stated it would be council's decision to add an administrative fee for delivery.

Council Member McDonald stated staff should decide the best price and bring to council for consideration.

Council Member Hess moved to approve the Tidewater Fibre Recycling contract as presented. Council Member McDonald seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, and Stroud voting aye; no council member voting no; and Council Member Pfizenmayer absent.

Attorney Contract

Ike McRee, town attorney, stated that the town currently pays a blended rate of one hundred and twenty-five dollars an hour for any and all services rendered with any of the sixteen attorneys in the firm, which is a preferred rate. He stated instead of an hourly rate most towns use a retainer plus an hourly rate for services outside the retainer.

Mayor Smith stated upon review of past annual billing it appears the average annual cost for these services are around thirty-eight thousand. He asked would the bulk of the services fall under the retainer cost.

Mr. McRee said yes but there are projects and personnel issues that would be at a separate cost as well as ordinances drafted and letters written that would be at an hourly rate of a hundred and fifty dollars.

Mayor Smith stated as part of the retainer rate it includes the attorney attending two council meetings a month but ordinarily he only attends one meeting a month. He asked if the retainer fee could be reduced. Mr. McRee said no.

Council Member Stroud asked is this an annual contract. Mr. McRee stated that the attorney serves at the pleasure of the council.

Council Member Hess asked if the retainer agreement was approved could council change the arrangement. Mr. McRee stated yes but the hourly rate would be higher than the current rate of one hundred and twenty-five dollars.

Council Member McDonald moved to approve the new proposal for legal services of a twenty-five hundred dollar a month retainer with the current attorney firm beginning February 1, 2008. Mayor Smith seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, and Stroud voting aye; no council member voting no; and Council Member Pfizenmayer absent.

Canal Dredging Project

The town manager announced that council has been notified that the variance request on the canal dredging permit application with CAMA is in the works.

NEW BUSINESS

Board of Adjustment Appointments (BOA)

Mayor Smith announced that Bob Siegel has submitted his resignation from the Board of Adjustment; as well as Pat Storey's term of vice-chairman expired in December 2007 and she does not wish to remain as vice chairman and Henry Frazier, III, alternate, also has submitted his resignation since he has moved to Virginia.

Council received a slate of members to review for the appointments. Two of the alternates have agreed to accept appointment as a full time board member; Morgan Mason and Ed Cowell. Frans Koeleveld and Peter McOrmond each have agreed to be chairman if appointed.

Council needs to appoint a full time member to replace Bob Siegel and in accordance to Town Code council appoints the chair and vice chair for the Board of Adjustment.

Mayor Smith stated in the past the chairmen of the BOA have been attorneys. He asked should the chairman be someone with a legal background. The town attorney stated it is helpful but it is not essential.

Council Member Hess moved to appoint Ed Cowell as a full time member; Peter McOrmond as chairman and Frans Koeleveld as vice-chairman. Council Member McDonald seconded.

The motion passed with Mayor Smith, Council Members Hess, McDonald, and Stroud voting aye; no council member voting no; and Council Member Pfizenmayer absent.

Mayor Smith congratulated and thanked them for their volunteer spirit.

Council Member Hess recommended that Bob Siegel be recognized for his years of service on the Board of Adjustment.

The town clerk stated that resumes need to be received and presented to council for appointment of two alternates to the board.

Fire Insurance District Designation Resolution

The town manager asked Fire Chief Harvey and Deputy Chief Shrader to provide information on the need of a designation for a fire insurance district.

Deputy Chief Shrader provided background information and a resolution for council consideration based on a recent state inspection that revealed a long-standing technical problem with the town. He stated the town has been served under a fire protection contract with the Southern Shores Volunteer Fire Department since 1982 and Martin's Point was included in 1984. He stated the town's current budget funding for the fire protection equals 1.72 cents per \$100 of assessed value. He stated that the town has been excluded from the legally defined Fire Insurance District since 1984 as well as the fire district map is inaccurate. He stated there is a Fire Tax District also; not to be confused with the Fire Insurance District. He stated these issues can be resolved by a resolution to the Dare County Board of Commissioners. He stated to resolve all of the issues and reduce future liabilities and financial exposure for the town, the fire department recommends that the town adopt a resolution that will both request inclusion of the town in the Southern Shores Fire Insurance District and consent to inclusion of the town in the Southern Shores Fire District. He stated adoption of both concepts will assure continued fire protection at levels that provide property owners with maximum homeowner's insurance benefits while relieving the town of financial responsibility for fire protection. He stated there is a deadline for council's consideration of March 1, 2008. He stated the fire department will be facing some significant capital needs in the near future with the mandate to purchase new fire trucks and federal mandates to modernize and update equipment and buildings. He stated the town also has upcoming significant financial needs to be considered in upcoming budgets. He stated the SSVFD proposes the town, in addition to requesting the addition of the town to the Fire Insurance District, request and consent to the addition of the town to the Southern Shores Fire (Tax) District, effective July 1, 2008. The county would then collect and pay to SSVFD tax revenues for fire service in a manner similar to that already used in Martin's Point. The exact tax rate to be charged would be determined by the department's budget and the effective valuation of district property. He stated the SSVFD is willing to look into providing life guard services to the town in the future. He stated that the fire department has been able to apply and receive federal grant funds for major equipment purchases. He stated there are other grants available but they can not apply due to their budget being funded by the town.

The town manager asked if the fire department were to provide life guard services would it be for the sound side also and would it be a year round service, twenty-four hours a day.

Deputy Chief Shrader stated yes and there is a need to increase the capability of search and rescue on the sound side. He stated there has been some discussion with the Town of Duck and Martin's Point on a search and rescue operation and the cost of the service could possibly be shared.

Mayor Smith asked Deputy Chief Shrader to address liability issues. The town attorney stated there is no difference than the liability that the town already has against protection from law suits.

Council Member McDonald stated for clarification that Martin's Point fire tax share is two cents on a hundred dollars per assessed value which helps pay for the cost of a fire truck.

Mayor Smith stated the town has \$100,000 earmarked in the budget for a new fire truck but if council would agree to release the fire department and the taxes are collected by the county that \$100,000 could be used on town capital improvement projects.

Council Member Hess questioned if the town could legally release the funds. Deputy Chief Shrader stated the fire department would make it right so the town would be released of those funds.

Council Member Hess stated she is concerned about the loss of shared revenue and asked why the town could not collect the fire tax and keep the money in the town's tax base. Deputy Fire Chief Shrader stated he is not sure but if there is a separate fire tax within the town that the shared revenues would not follow.

Deputy Chief Shrader stated the fire department would not want to raise the fire tax in Martin's Point to the point that it would have the affect that they would be subsidizing Southern Shores. He stated eighty percent of the cost in a typical fire department is in manpower. He stated in having a volunteer fire department is saving the town millions of dollars.

Council Member Hess stated she is concerned about the relationship with the town to the fire department if the taxes are collected by the county. She stated our emergency management center is held at the fire station and the volunteers predominately are from the town and it seems you will be removed.

Chief Harvey stated he sees no change in the relationship and may even improve the relationship by taking them out of the budget process. It gives the fire department some financial freedom and allows them to make their own decisions.

Deputy Chief Shrader stated this change may improve the relationship by those issues that need to be prioritized such as the CIP, life guard service and streets in the budget and by taking the fire department out of that mix relieves tension in the community. The town still gets to keep the fire department service without the fire department being in competition for town funds.

Mayor Smith asked if fire inspections would be done by the fire department at no additional cost as this is currently costing the town by using a part-time employee. Deputy Chief Shrader said yes.

Council Member McDonald stated the fire inspections still would be paid from taxes.

Deputy Chief Shrader stated the fire department will need to hire someone for this position and there will be a savings at some point.

Council Member McDonald stated this is a lot of information to take in and make a decision in a short period of time and he is not ready. He stated Council Member Pfizenmayer is not here to hear all that has been addressed today. He supports getting the mapping done but would like to be able to review the issues more and consider for next year.

Deputy Chief Shrader stated to delay this means going to the county and holding multiple meetings the deadline can not be met. He stated the fire department budget needs to be presented to the county and the county tax district needs to be come effective by July 1, 2008. He stated the fire department needs two new trucks and needs to submit the order by the end of February; which they would be delivered within six months and the finances need to be completed. If a budget is submitted to the county and a separate one to Southern Shores there will show a disparity.

Council Member McDonald stated that Martin's Point pays their share of the tax based on the budget not the capital needs and once your capital needs are met through the financing the disparity would even out.

Deputy Chief Shrader stated by removing the fire department from the town budget that gives the town \$420,000 to use on projects or reduce taxes.

Council Member McDonald stated the overall tax would be increased. He is not prepared to vote today. He may want to have a public comment. He supports amending the fire district but not supporting the fire insurance district at this time. He wants to get away from cash purchases and use some type of financing for major purchases. He would like to talk to the county fire marshall. If this is what the fire department wants he would suggest not doing it this year.

Deputy Chief Shrader stated the deadline for the fire insurance district would begin this coming fiscal year through 2014 with the county. A decision needs to be presented to the county by February 4, 2008.

The town attorney stated the county should have had communication with the town. If the town should like to meet with the county council could hold a special meeting before February 4 or the town could discuss with the county and decide on consideration. If the fire department enters into a contract some amendment to the contract could be made.

Mayor Smith asked what the impact would be to each party and if agreed upon what is the process if the town would want to go back. Deputy Chief Shrader stated there are general statutes to cover this.

The town attorney stated he is not clear on this and he would like to review this further and advise council accordingly.

Council Member Hess agreed to approve a resolution fixing the map and she agrees with Council Member McDonald. She stated the fire department has done a great job in presenting this issue.

Deputy Chief Shrader stated if the contract wasn't looked at carefully the town could have been included in the tax district without being legally enacted. The contract with the county will need to be modified to exclude Southern Shores from the tax district.

Council Member Hess moved to approve Resolution 2008-01-02 to modify the map to fix the problem as identified and in the resolution to include only item number one (1) and forward to the county for their February 4th agenda. Council Member McDonald seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, and Stroud voting aye; no council member voting no; and Council Member Pfizenmayer absent.

Council Member McDonald stated this proposed contract is to allow the county to collect the fire tax. The fire department submits a budget and they agree or not and then the county sets the tax rate and collects the money.

[Clerk's Note: Resolution 2008-01-02 is attached hereto as Exhibit A].

Council Member Hess addressed the Surf Rescue contract that council delayed on considering until they heard the report from the fire department. She moved to approve the Surf Rescue contract as written for three years. Council Member McDonald seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, and Stroud voting aye; no council member voting no; and Council Member Pfizenmayer absent.

Mayor Smith asked what would happen if the town could only appropriate a certain amount of funds are we locked into the price quoted. The town attorney stated the contract would end if council can not appropriate funds.

OTHER ITEMS

Town Manager

Mr. Read announced three Southern Shores police officers will be attending the funeral of a fallen officer who was killed in the line of duty in Chesapeake, Virginia. He stated as an individual, as a town manager and a retired law enforcement man he is incredibly proud of our police force and our chief for making this happen and whom we are rightfully proud.

Mayor

Mayor Smith announced the appointments of Kevin Stroud and Jim Pfizenmayer to the committees of the Land Use Plan Steering Committee, the Hazard Mitigation and the Reconstruction Task Force Committees and Brian McDonald's appointment to the town's Storm Water Management Committee, as well as Kevin Stroud's appointment to the Outer Banks Transportation Task Force subcommittee for pedestrian/bicycle safety.

Council

Council Member McDonald reported he attended the storm water committee meeting and they are ready to meet with the roads committee to develop the long range capital improvement plan. He stated the state has approved the new storm water requirements for the twenty coastal communities. He is still concerned about these requirements and they do not grandfather any properties or allow for vested rights. He encouraged citizens to follow up and read these rules. He stated the new rules affect what the vegetation committee is doing. New development will be affected by these rules. The existing rules are not being enforced and now more unenforceable rules are being approved. He stated everyone wants clean water but at what cost.

GENERAL PUBLIC COMMENT

Mayor Smith opened the public comment section, hearing from no one he closed the public comment section.

Council Member Hess moved to recess this meeting so council could go into a joint meeting with the Planning Board at 10:15 a.m. Council Member McDonald seconded.

The motion passed with Mayor Smith, Council Members Hess, McDonald, Pfizenmayer and Stroud voting aye; no Council Member voting no; and no Council Member absent or not voting.

Council reconvened the meeting at noon.

Mayor Smith moved to go into closed session under N.C.G.S. 143.318. (a) (6). Council Member Stroud seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Pfizenmayer and Stroud voting aye; no Council Member voting no; and no Council Member absent or not voting.

Mayor Smith moved to enter into open session. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, Pfizenmayer and Stroud voting aye; no Council Member voting no; and no Council Member absent.

The town manager stated he needs Council to give him direction on the fire department proposal.

Mayor Smith stated he has some major concerns that if the County takes over they don't care what the tax rate is. He stated the town attorney also has some concerns.

Council Member McDonald feels we need more time to look at the pros and cons of letting the fire department go to county control.


The town manager asked if everyone would read over the proposal, ask questions to the fire department and see if they can come to some kind of agreement.


Council Member Stroud stated he wants to talk to someone other than the fire department to get an objective opinion. He stated he is concerned with the loss of shared revenues.

It was agreed to look at this issue next year and check with the NC League of Municipalities to see if any other town like ours has done something like this and get their opinion.

Hearing no other business Council Member Hess moved to adjourn at 2:35 p.m. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, Pfizenmayer, and Stroud voting aye; no council member voting no; and no council member absent.

ATTEST:


Don Smith, Mayor



Respectfully submitted:


Carrie Gordin, Town Clerk

**TOWN OF SOUTHERN SHORES
NORTH CAROLINA**

RESOLUTION

WHEREAS, the Town of Southern Shores (hereinafter referred to as Town) has for many years provided as a governmental service, fire protection through a contract with the Southern Shores Volunteer Fire Department (hereinafter Fire Department); and

WHEREAS, pursuant to the contracts between Town and Fire Department, the Town has furnished a portion of the funds for the operation of the Fire Department to deliver fire protection services; and

WHEREAS, the inclusion of the geographic area of the Town in a Fire Insurance District as described in NCGS 153A-233 is necessary for property owners to realize insurance benefits from fire protection service; and

WHEREAS, Fire Insurance Districts may be created by the Dare County Board of Commissioners; and

WHEREAS, the Town of Southern Shores is immediately adjacent to and contiguous with the "Southern Shores Fire District" which is established as a Rural Fire Protection District under NCGS 69-25, is also established as a Fire Insurance District as described by NCGS 153A-233 and is also served by the Southern Shores Volunteer Fire Department under contract with Dare County; and

WHEREAS, as a result of discussions between the governing bodies of the Town and Fire Department, the Town Council has determined it to be in the interest of the citizens of the Town for the geographic area of the Town to become part of the Southern Shores Fire District.

NOW, THEREFORE BE IT RESOLVED:

The Town Council requests that the Dare County Board of Commissioners designate that the geographic territory within the corporate limits of the Town of Southern Shores be immediately included in the Southern Shores Fire Insurance District.

IN WITNESS WHEREOF, Town of Southern Shores has caused this instrument to be signed in its corporate name by its Mayor, attested by its Town clerk, and its corporate Seal affixed this 22nd day of January 2008.

TOWN OF SOUTHERN SHORES

By:

Attest:

Donel C. Smith, Mayor

Carrie Gordin, Town Clerk